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# HOUSE BILL No. 1423

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 32-31-9.

**Synopsis:** Mobile home lot rentals. Sets forth certain obligations and rights of the parties to a mobile home lot lease.

**Effective:** July 1, 2004.

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January 20, 2004, read first time and referred to Committee on Commerce and Economic Development.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1423

A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 32-31-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

### **Chapter 9. Mobile Home Rental Agreements**

**Sec. 1. (a) This chapter applies only to a residential tenancy in which a mobile home is placed upon a rented lot in a mobile home park under a rental agreement entered into or renewed after June 30, 2004.**

**(b) This chapter does not apply to a tenancy in which a rental space is occupied by a recreational vehicle or another unit that:**

**(1) is primarily designed as temporary living quarters for recreational camping or travel use; and**

**(2) has its own motor power or is mounted on or drawn by another vehicle.**

**(c) IC 16-41-27 also governs mobile home lot tenancies covered by this chapter.**

**Sec. 2. As used in this chapter, "lot rental" means all financial**



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obligations, except user fees, required as a condition of a mobile home lot tenancy.

Sec. 3. As used in this chapter, "mobile home" has the meaning set forth in IC 16-41-27-4.

Sec. 4. As used in this chapter, "mobile home owner" refers to a person who:

(1) owns a mobile home; and

(2) leases a lot within a mobile home park for the mobile home for residential use.

Sec. 5. As used in this chapter, "mobile home park" has the meaning set forth in IC 16-41-27-5.

Sec. 6. As used in this chapter, "park owner" refers to an owner or operator of a mobile home park.

Sec. 7. As used in this chapter, "pass through charge" means the mobile home owner's proportionate share of the necessary and actual direct costs and impact or hookup fees for a governmentally mandated capital improvement. The term includes the necessary and actual direct costs and impact or hookup fees incurred for capital improvements required for public or private regulated utilities.

Sec. 8. As used in this chapter, "rental agreement" means a written or an oral agreement:

(1) between a mobile home owner and a park owner; and

(2) under which the mobile home owner is entitled to place the owner's mobile home on a mobile home lot for consideration given to the park owner.

Sec. 9. As used in this chapter, "user fees" means the amounts charged in addition to the lot rental for nonessential optional services provided by or through the park owner to the mobile home owner under a written agreement between the mobile home owner and the person furnishing the optional services.

Sec. 10. The provisions of this chapter are considered to be a part of a rental agreement whether the rental agreement is oral or written.

Sec. 11. (a) A rental agreement may not contain a provision that is prohibited by, or inconsistent with, this chapter.

(b) A provision in the rental agreement that attempts to waive or preclude the rights, remedies, or requirements set forth in this chapter or arising under another law is unenforceable.

Sec. 12. A mobile home owner has no financial obligation to the park owner as a condition of occupancy in the mobile home park, except the lot rental and any user fees that the mobile home owner

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1 has agreed to pay.

2 Sec. 13. (a) A rental agreement may not be for a term of less  
3 than one (1) year.

4 (b) If the rental agreement is oral, the term of the lease is  
5 considered to be one (1) year from the date of occupancy.

6 Sec. 14. A rental agreement must specify the lot rental and the  
7 services included as part of the rental agreement.

8 Sec. 15. (a) An increase in the lot rental may not be inconsistent  
9 with this article.

10 (b) An increase in the lot rental may not discriminate between  
11 similarly situated tenants in the mobile home park.

12 Sec. 16. (a) Except as provided in this section, the lot rental may  
13 not be increased during the term of the rental agreement.

14 (b) The lot rental may be increased during the term of the rental  
15 agreement if all the following are satisfied:

16 (1) The term of the rental agreement is more than one (1)  
17 year.

18 (2) The method to compute the increase is set forth in the  
19 rental agreement.

20 (3) The rental agreement does not provide for an increase  
21 more than one (1) time a year.

22 (c) The lot rental may be increased during the term of the rental  
23 agreement for increases in pass through charges.

24 Sec. 17. A park owner may not charge a mobile home owner  
25 user fees for any services that were previously provided by the  
26 park owner and included in the lot rental unless there is a  
27 corresponding decrease in the lot rental.

28 Sec. 18. (a) Any time during the term of a rental agreement, a  
29 park owner may pass through to a mobile home owner an increase  
30 in property taxes or utility charges if both of the following apply:

31 (1) The property taxes or the utility charges are not otherwise  
32 being collected as part of the lot rental.

33 (2) The right to pass through increases in property taxes or  
34 utility charges is stated in the rental agreement.

35 (b) A park owner may not pass through charges to a mobile  
36 home owner later than one (1) year after the date the park owner  
37 pays the charge.

38 (c) A park owner may not pass through interest, a fine, a fee, or  
39 an increase in a charge resulting from a park owner's payment of  
40 a charge after the date the charge became delinquent.

41 (d) A park owner and a mobile home owner may agree to an  
42 alternative manner of payment to the park owner of the pass

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through charges.

Sec. 19. (a) This section does not apply to pass through charges.

(b) A park owner may not collect fees, charges, or assessments that have not been fully disclosed to the mobile home owner before the beginning of the tenancy.

(c) Refusal by the mobile home owner to pay an undisclosed fee, charge, or assessment may not be used by the park owner as a cause for eviction.

Sec. 20. A park owner shall give written notice to each affected mobile home owner and the board of directors of the mobile home owners' association (if one has been formed) not later than ninety (90) days before any of the following occur:

(1) An increase in lot rental.

(2) A pass through charge is assessed.

(3) A reduction in services or utilities provided by the park owner.

(4) A change in park regulations.

Sec. 21. The notice required by section 20 of this chapter must identify all other affected mobile home owners. The identification may be by name, lot number, group, or phase. If the affected homeowners are not identified by name, the park owner shall make the names and addresses available upon request.

Sec. 22. The park owner may enforce regulations adopted as a result of restrictions imposed by a governmental entity and required to protect the public health, safety, and welfare before expiration of the ninety (90) day notice period, but changes in the regulations are not otherwise exempt from the requirements of this chapter.

Sec. 23. A park owner must separately list any pass through charge to be imposed in a notice with the following information:

(1) The amount of the charge.

(2) The name of the governmental entity mandating the capital improvement.

(3) The nature or type of the pass through charge being levied.

(4) The additional payment for each pass through charge.

(5) The starting and ending dates of each pass through charge.

Sec. 24. A committee, not to exceed five (5) individuals, designated by a majority of the affected mobile home owners or by the board of directors of the homeowners' association (if one has been formed) and the park owner shall meet at a mutually convenient date, time, and place not later than thirty (30) days after receipt by the mobile home owners of the notice of change to

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1 discuss the reasons for the increase in lot rental, reduction in  
2 services or utilities, or change in regulations.

3 **Sec. 25. (a)** At a meeting required by section 24 of this chapter,  
4 the park owner shall in good faith disclose and explain all material  
5 factors resulting in the decision to increase the lot rental, reduce  
6 services or utilities, or change park regulations, including how  
7 those factors justify the specific change proposed.

8 **(b)** The park owner may not limit the discussion of the reasons  
9 for the change to generalities only, such as increases in operational  
10 costs, changes in economic conditions, or rents charged by  
11 comparable mobile home parks.

12 **(c)** If the reason for an increase in lot rental is an increase in  
13 operational costs, the park owner must disclose the following  
14 information:

15 **(1)** The item or items that have increased.

16 **(2)** The amount of the increase.

17 **(3)** Any items that have decreased and the amount of the  
18 decrease for each item.

19 **(d)** If an increase is based upon the lot rental charged by  
20 comparable mobile home parks, the park owner must disclose the  
21 name, address, lot rental, and any other relevant factors  
22 concerning the mobile home parks relied upon by the park owner.

23 **(e)** The park owner shall prepare a written summary of the  
24 material factors and retain a copy for three (3) years. The park  
25 owner shall provide the committee a copy of the summary at the  
26 meeting.

27 **Sec. 26. (a)** Not later than thirty (30) days after the date of a  
28 meeting held as required by section 24 of this chapter, the mobile  
29 home owners may seek arbitration of the dispute under IC 34-57-2  
30 if a majority of the affected mobile home owners sign a written  
31 petition stating any of the following:

32 **(1)** The lot rental increase is unreasonable.

33 **(2)** The lot rental increase has made the lot rental  
34 unreasonable.

35 **(3)** The decrease in services or utilities is not accompanied by  
36 a corresponding decrease in lot rental or is otherwise  
37 unreasonable.

38 **(4)** The change in the park regulations is unreasonable.

39 **(b)** A park owner also may seek arbitration under IC 34-57-2  
40 not later than thirty (30) days after the date of a meeting held as  
41 required by section 24 of this chapter.

42 **(c)** When a dispute involves a lot rental increase for different

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1 mobile home owners and there are different rates or different  
2 rental terms for those mobile home owners, all such lot rental  
3 increases in a calendar year for one (1) mobile home park may be  
4 considered in one (1) arbitration proceeding.

5 (d) A mobile home owners' association does not have standing  
6 to challenge the increase in lot rental, reduction in services or  
7 utilities, or change of rules and regulations unless a majority of the  
8 affected homeowners agree, in writing, to such representation.

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